IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21458 of 2004

Between:

Smt. Ahemdunnisa Begum, W/o. Mohammed Masthan Shariff,
Madepalli Road, Khateeb Street, Moulana Street, Eluru.

..... PETITIONER

AND

1 Government of Andhra Pradesh, Rep. by its Secretary, Home Department, Secretariat, Hyderabad.
2 The Superintendent of Police, Eluru, West Godavari District.
3 Station House Officer, I Town Police Station, Eluru.
4 The Mandal Revenue Officer, Eluru Mandal, Eluru.
5 Md. Iqbal Rahman, S/o. Janab Mohammed Abdul Rahman, C/o. Eliyas-ur-Rahman, Door No.511, Laxmivarapupeta, Eluru.
6 Md. Eliayas-ur-Rahman, S/o. Late Md. Suleman, Door No.511, Laxmivarapupeta, Eluru.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 to 4 in closing the FIR No.64/2001 dt. 27/04/2001 and without notice to affected parties as illegal and arbitrary and consequentially direct the respondents to file Reopen Memo and prosecute the respondents 5 to 6 and such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.L.ALI

Counsel for the Respondent Nos.1 to 3: GP FOR HOME

Counsel for the Respondent No.4:----------

Counsel for the Respondent Nos.5 and 6:None appeared

The Court at the admission stage made the following Order :

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO. 21458 of 2004

ORDER:

The petitioner seeks a declaration that the action of the respondents 1 to 4 in closing the F.I.R.No.64 of 2001, dated 27.04.2001, against respondents 5 and 6 is illegal and arbitrary. She also seeks a further direction to reopen the same and prosecute respondents 5 and 6.

Heard the learned counsel for the petitioner and the learned Government Pleader for Home.

The complaint, which gave rise to F.I.R.No.64 of 2001, was submitted by the Mandal Revenue Officer, Eluru, alleging that the building in premises No.72-3-172 in about 400 sq. yards vested in the Government as an escheat and was allotted for establishment of Women and Child Welfare office. It was stated that respondents 5 and 6 have removed valuable timber items from the building and he requested the 3rd respondent to take appropriate action. The 3rd respondent, in turn, closed the F.I.R., by stating that it is a purely civil dispute.

Basically, if the F.I.R. was closed, the aggrieved party ought to have been the complainant viz., Mandal Revenue Officer. The petitioner is not the complainant. Therefore, she cannot have any grievance, if the F.I.R. is dealt with in a particular manner. From the tenor of the affidavit filed in support of the writ petition, it is evident that the petitioner is making a rival claim to the property. If the petitioner is able to establish her title to the property, she can certainly seek the other ancillary reliefs, in respect of the same. As and when her title is upheld, and she is granted decree for recovery of possession, she can also claim the restoration of the items said to have been removed by respondents 5 and 6 in accordance with law.

Hence, the writ petition is dismissed. However, it is left open to the petitioner to work out her remedies in an appropriate Court. There shall be no order as to costs.

13.12.2004

usd/ts

To

1 The Secretary, Government of Andhra Pradesh, Home Department, Secretariat, Hyderabad.
2 The Superintendent of Police, Eluru, West Godavari District.
3 The Station House Officer, I Town Police Station, Eluru.
4 The Mandal Revenue Officer, Eluru Mandal, Eluru.

5 Two CCs to G.P. for Home, A.P.High Court Buildings, Hyderabad (OUT).

6. Two CD copies.